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# PLAINTIFFS

ALVIN D. MAYBERRY

# DEFENDANTS

AKRON RUBBER MACHINERY CORPORATION, a corporation, UNIROYAL, INC., a corporation, and ~~USM CORPORATION, a corporation~~ 3-14-76

# CAUSE

Title 28, Sec. 1332, Subsections 1 and 3, USCA  
Suit to recover for personal injuries based upon products liability.

# ATTORNEYS

Frank R. Hickman  
1419 South Denver  
Tulsa, Oklahoma 74119  
582-9773

Dan A. Rogers (Akron Rubber Mach.)  
117 East Fifth Street  
Tulsa, OK 74103 583-5111  
  
Bert M. Jones (Uniroyal, Inc)  
2900 Fourth Natl. Bank Bldg.  
Tulsa, OK 74119 582-1173  
~~John F. McCormick Jr.~~  
~~Joseph M. Best~~ (USM Corp)  
~~200-Franklin-Building~~ 300 Oil Capi-  
Tulsa, Oklahoma 74103 tal Bldg.  
582-8877 3-14-76

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# FILING FEES PAID

DATE	RECEIPT NUMBER	C.D. NUMBER

# STATISTICAL CARDS

CARD DATE MAILED  
JS-5 4-1-76  
JS-6 11-1-78

DATE	NR.	PROCEEDINGS
3-8-76	1.	Complaint, filed. Summons issued to Marshal for Akron Rubber C Machinery Corp; Summons issued by Certified Mail to Uniroyal, Inc. and USM Corp; w/Pltf's <u>DEMAND FOR JURY TRIAL</u> . ph
3-30	--	Copy of Compl. mld. by cert. mail this date to USM Corp. (Cert. Mail #740999) and to Uniroyal, Inc. (Cert. mail #741000), at Frank Hickman's request. v <i>arg. of filing in file.</i>
3-30	2.	Deft Akron Rubber Mach's appl for extension of time to answer, filed. b
3-30	3.	Order, filed, extending time for Deft. Akron to answer to 4-30-76. (JCS-Clk)b
3-30	4.	Deft. Uniroyal's appl. for time til 4-13-76 to answer, filed.k
3-30	5.	Order, filed, granting deft. Uniroyal til 4-13-76 to ans. (JCS-Clk)k <i>msd</i>
4-5		U.S.Marshall's service returned and filed. Executed by serving summons on Akron Rubber Machiner Corp. 3-19-76 at Akron, Ohio. USM \$7.12. Return on cert. mail. Uniroyal and USM Corp. acknowledged receipt 4-2-76.
4-13	6.	Answer, filed, in behalf of Deft. Uniroyal, Inc.t
4-29	7	Separate Answer of Akron Rubber Machinery Corporation, filed.t
5-3	8	Deft., USM Corp., Answer, filed.t
5-20	9.	Deft. USM Corp's first set of interrogs. to pltf, filed.k
6-22	MO	Parties are directed to hold PT conf. on or before 8-5-76 & file PT Order on or before 8-11-76. (AEB-J)s cps by cert ml
7-26	10.	Pltf's answer to interrogs, filed.lm
8-13	11	PT order filed,s. (AEB-J)
9-13	MO	Case set for jury trial on 10-18-76 at 9:30 a.m. (AEB-J)k cps by cert ml
9-15	12	Deft's notice to take depositions of L. C. Skinner, Cecil E. Davis & John McMorrow on 10-8-76 at Tulsa, OK, filed.k
9-27	13	Pltf's interrogs. filed.s
9-29	14	Pltf's requested instructions, filed.s
10-4	15	Application of parties for continuance, filed.s
10-4	16	Order, filed, that the trial of this cause is continued from October 18, 1976, to the 22nd of Nov., 1976.s (AEB-J) cps. mld.
10-7	17	Deft. USM Corp's answers to pltf's interrogs., filed.s
10-12	18	Pltf's mot. to require the deft. USM Corp. to ans. interrogs., filed.
10-12	MO	It is ordered by the Court that the Deft. USM Corp. file a responsive brief to pltf's mot. to require deft. USM Corp. to ans. interrogs.s (AEB-J) cps. mld.
10-13	19	Deft. Akron Rubber Machinery Corp.'s ans. to interrogs., filed.s
10-12		USM serv. ret. and filed. Executed by serving Cecil E. Davis and John McMorrow on 9-21-76 at Tulsa, Okla. Unable to serve Alvin D. Mayberry and L. C. Skinner. Total fees \$13.00. Served Deposition Subpoena to Produce.s
10-22	20.	Response of USM CORPORATION to pltf's motion to require deft to ans. interrogs., filed.lm
10-26	MO	Case set for jury trial on 11-29-76 at 9:30 a.m. (AEB-J) nts by cert. ml w/affid.s

PLAINTIFF		DEFENDANT	DOCKET NO. _____
ALVIN D. MAYBERRY		AKRON RUBBER MACHINERY CORP. et. al.	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1976			
10-27	21.	Deft. Uniroyal, Inc.'s, application for extension of time until 11-6-76 to object to or answer interrogs., filed.s	
10-28	22.	Order, filed, granting deft. ext. of time to 11-6-76 to answer pltfs' interrogs. (AEB-J)lm cps mld	
11-4	23.	Appli. for additional time to ans. interrogs. to 11-19-76, filed.lm	
11-8	24.	Order, filed, granting deft. U.S.M. til 11-19-76 to ans. interrogs. (AEB-J)k cps mld	
11-10	25.	Order, filed, overruling pltf's mot. to compel deft. USM to ans. interrogs. (AEB-J)k cps mld	
11-12	26.	Deft. Uniroyal, Inc.'s answers to interrogatories, filed.s	
11-12	27.	Deft. Uniroyal, Inc.'s objections to interrogs. and brief in support thereof, filed.s	
11-15	28.	Defts. Uniroyal & USM's notice to take deposition of Robert C. Gray, on 11-17-76 at Tulsa, OK, filed.k	
11-17	29.	Deft. USM Corporation's answers to interrogatories, filed.s	
11-22		Deposition of Robt. C. Gray, taken on behalf of defts. before James Hickerson, C.S.R., w/ fees of \$82.50, filed.k	
11-22		Deposition of Alvin Mayberry, taken on behalf of defts. before James Hickerson, C.S.R., w/ fees of \$108.00, filed.k	
11-24	30.	Deft. USM Corporation's motion for S/J, filed.s	
11-24	31.	Brief in support of Deft. USM Corp's motion for S/J, filed.s	
11-24	MO	It is ordered by the Court that the pltf. file a responsive brief within ten (10) days to Deft. USM Corporation's mot. for S/J.s (AEB-J) cps. mld.	
11-24	32.	Deft. Uniroyal's Motion for S/J and brief in support, filed. ph	
11-24	MO:	It is ordered by the Court that the pltf. file a resp. brief within 10 days to deft. Uniroyal's Motion for S/J. (AEB-J)ph cps mld	
11-24	MO:	Case is stricken from jury docket of 11-29-76, pending ruling on motion for summary judgment.(AEB-J)b nts by phone	
12-3	33.	Pltf's response to motion for S/J of USM Corp., filed. lm	
12-3	34.	Pltf's response to motion for S/J of Uniroyal, Inc., filed. lm	
12-7	35.	Motion of deft. Akron Rubber Machinery Corp. for S/J, filed. ph	
12-7	36.	Brief in support of deft. Akron's motion for S/J, filed. ph	
12-7	MO:	It is ordered by the Court that the pltf. file a resp. brief within 10 days to the Motion of deft. Akron Rubber Mach. Corp. for S/J. (AEB-J)ph cps mld	
12-15	37.	Response to pltf's resp. to motion for S/J of USM Corp., filed. hm	
12-17	38.	Pltf's response to deft. Akron's mot. for S/J & brf in support, fld.k	
1977	39.	Pltf's additional response to motions for S/J, filed.s	
1-5			
1-24	40.	Deft. Uniroyal's reply to pltf's response and additional response to the motion for S/J of deft, Uniroyal, Inc., filed.s	
3-31	MO	Case set for hrg. on defts' motions for S/J and pltf's responses thereto on 5-3-77 at 10:00 a.m. (AEB-J)k ntc by cert ml	

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE 1977	NR.	PROCEEDINGS	
4-28	MO:	Hrg. on defts' mots. for S/J and pltf's response thereto heretofore set on 5-3-77 at 10:00 a.m. is hereby stricken, to be reset at a later date by the Court. (AEB-J)k cps mld	
5-11	MO:	Case referred to Magistrate Robert S. Rizley for Findings and Recommendations on all motions. (AEB-J) njb	
5-27	MO	Case set of hearing on Deft. Uniroyal, Inc.s' mot. for S/J, & Defts. USM Corp. mot. for S/J, & Deft. Akron Rubber Machinery Corps. mot. for S/J., before Mag. on 6-10-77 at 3:30 P.M. (RSR-MAG) not. mld.	
6-10	Min	Case called for hrg. on defts' motions for S/J. Parties represented. Motions taken under advisement. Magistrate to prepare findings and recommendations. (RSR-Mag)k	
6-30	MO	It is recommended by the Mag. that deft. USM Corp's mot. for S/J be sustained and defts. Akron Rubber and Uniroyal's mots. for S/J be overruled. Pltf. counsel is granted 10 days to prepare F&R of the Mag. (RSR-Mag)k cps by KT	
12-29	41.	Findings & Recommendations of the Magistrate, filed. Mag. recommends that deft. USM Corp's mot. for S/J should be sustained & defts. Akron & Uniroyal's mots. for S/J should be overruled. (RSR-Mag)k cps mld	
<u>1978</u>			
1-6	42	Deft. Uniroyal pet. to set aside F/R of Mag. fld. ho 0 to J.	
1-6	43	Deft. Uniroyal brief in supp. of pet. to set aside F/R of Mag. fld. ho	
1-6	MO	It is ordered that the Pltf. is granted 10 days to file a responsive brief to Deft. Uniroyals pet. to set aside F/R of Mag. (AEB-J) c/m ho	
1-19	44	Pltf. brief in opposition to Pet. to set aside Mag. findings. fld. ho	
3-14	45	Order, filed & entered, that the pet. of deft. Uniroyal to set aside F&R of the Mag. is overruled. Further, that the mot. for S/J of deft. USM Corp. is sustained. Further, that the mots. for S/J of deft. Akron and Uniroyal are overruled. (AEB-J)k cps mld	
3-14	46	Judgment, filed & entered, in favor of the deft. USM Corp. and against pltf. (AEB-J)k cps mld	
4-17	MO:	Case set for jury trial on 5-8-78, at 9:30 A.M. (AEB-J)b nts cert w/affid.	
4-19	47	Defts. appl. for continuance, fld. ho 0 to J.	
4-21	48.	Order, filed, striking case from May, 1978 jury docket, to be reset after June, 1978, this being last extension to be granted. (AEB-J)b	
6-13	MO:	Case is set for jury trial on 7-10-78, at 9:30 A.M. (AEB-J)b nts cert w/affid.	
6-19	49	Deft. Uniroyal interrog. to Pltf. fld. ho	
6-29	50	Deft. Akron's appl. to strike case from 7-10-78 jury trial setting, filed.k 0 to J	
7-3	51	Deft. Akron Rubber Mach. Corp. trial brief, fld. ho	
7-6	MO	The Ct. has for consideration the appl. of the Deft., Akron Rubber Mach. Corp., to strike this case from the 7-10-78, jury docket & reset on the next jury docket, finds that said appl. should be granted. IT IS SO ORDERED. (AEB-J)ho Ntc. by MC.	
7-12	MO:	Case is set for jury trial on 8-14-78, at 9:30 A.M. (AEB-J)b nts cert. w/affid.	
7-24	52	Joint appl. for continuance, fld. ho 0 to J.	
7-28	53.	Order, filed, granting applic. for continuance of jury trial. (AEB-J)b cps mld	
7-28	MO:	With the agreement of counsel for all parties, IT IS ORDERED that case is referred to the Magistrate Robert Rizley, for jury trial on 9-11-78. Reference made pursuant to M-128 & 28 U.S.C. Sec.636 et seq. (AEB-J)b nts mld	

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
Alvin D. Mayberry		Akron Rubber Machinery, et al	PAGE ____ OF ____ PAGES
DATE 1978	NR.	PROCEEDINGS	
8-17	MO	Case set for final pre-trial conference before the Mag. on 9-5-78 at 3:15 p.m. (RSR-Mag)k ntc by KT	
8-21	54	Deft. UniRoyal's mot. to compel pltf. to answer interrogs., filed.k	
8-21	55	Memorandum in support of deft. UniRoyal's mot. to compel, filed.k	
8-22	56	Pltf's answers to interrogatories, filed.k	
8-24	57	Supplement to deft. UniRoyal's motion to compel answers to interrogs., filed.k	
8-24	58	Notice to pltf. of hrg. before Mag. Robert Rizley on deft. Uniroyal's mot. and suppl. to compel on 9-5-78 at 3:15 p.m. Pltf. is directed to file a response to said mot. on or before 8-31-78. (RSR-Mag)k cps mld	
8-30	59	Response to Mtn to Compel and Supplement Thereto, filed.jc <i>copy to R</i>	
9-1	MO:	Case is set for jury trial on 9-11-78, at 9:30 A.M. (RSR-Mag) b nts by KT	
9-5	Min.	Case called for final pretrial conf. & on deft. Uniroyal's motion to compel. Parties pres. Final pretrial conf. held. Parties request that case be set for jury trial on Oct. jury docket. Case stricken from Sept. docket. Deft. Uniroyal motion to compel w/drawn upon condition that Pltf. furnish deft. with resume of Pltf's witness Toby Nelson & statement with respect to experience in rubber manufacturing business. (RSR-Mag) b	
9-22	MO	Case set for jury trial before Mag. Rizley on 10-10-78 at 10:00 a.m. (RSR-Mag)k ntc by KT	
9-29	--	Return on USM service of subpoena, filed. Executed by serving Robt. Gray on 9-28-78 at Tulsa, OK, w/ fees of \$4.88.k	
10-10	Min	Case called for jury trial before the Mag. Parties represented. Due to illness, pltf. counsel requests continuance of trial. Case passed to 10-12-78 at 9:30 a.m. (RSR-Mag)k	
10-12	Min	Case called for jury trial before the Mag. Parties represented. Pltf. moves for dismissal w/out prejudice. With no objection from defts., Mag. recommends that the Court enter an Order dismissing case without prejudice. (RSR-Mag)k	
10-13	60	Order, fld. & entered It is ordered that Pltfs. mot. to dismiss w/out prejudice is sustained & the cause of action & compl. is dismissed w/out prejudice as to the Defts. Akron Rubber Machinery Corp. & Uniroyal, Inc.. (AEB-J)ho c/m	
1980 8-5	--	DEPOSITIONS returned to deft. counsel. hm	

PLAINTIFF	DEFENDANT	DOCKET NO. _____
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PAGE \_\_\_\_\_ OF \_\_\_\_\_ PAGES

NR.

## PROCEEDINGS